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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/648,529	08/25/2003	Pete L. Pavicich	BOC-P101	4658
32566	7590	10/05/2004	EXAMINER	
PATENT LAW GROUP LLP 2635 NORTH FIRST STREET SUITE 223 SAN JOSE, CA 95134			ARYANPOUR, MITRA	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,529

Applicant(s)

PAVICICH ET AL.

Examiner

Mitra Aryanpour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 25 August 2003.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: first side board 16; second side board 17; 16D, 16E, 17D, 17E. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: on page 4, paragraph [0010] the description for Figure 1 should be designated by a legend such as --Prior Art--

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because only that which is old is described. Appropriate correction is required for the above objection.

4. The use of the trademark ASTROTURF has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: VELCRO STRIP (see claim 15).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 15, 18 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is important to recognize that a Trademark or Trade Name is used to identify a source of goods, and not the good themselves. Thus a Trademark or Trade Name does not identify or describe the goods associated with the Trademark or Trade Name. See definitions of Trademark and Trade Name in MPEP 608.01(v). A Trademark or Trade Name used in a claim as a limitation to identify or describe a particular material or product does not comply with the requirements of 35 USC 112, second paragraph. Ex parte Simpson, 218 USPQ 1020 (Bd. App.

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1982). The claim scope is uncertain since the Trademark or Trade Name cannot be used properly to identify any particular material or product. In fact, the value of the Trademark or Trade Name would be lost to the extent that it became descriptive of a product, rather than used as an identification of a source or origin of a product. Thus, the use of a Trademark or Trade Name in a claim to identify or describe a material or product would not only render a claim indefinite, but would also constitute an improper use of the Trademark or Trade Name. If the Trademark or Trade Name appears in a claim and is not intended as a limitation in the claim, then the question of why it is in the claim arises and whether or not its presence causes confusion as to the scope of the claimed subject matter. In the instant case the use of Trademark VELCRO AND ASTROTURF is noted in claims 15, 18 and 28.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 3, 4, 7, 10-14, 23-25, 31, 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (1,399,864).

Regarding claim 1, Johnson discloses a transportable sport court comprising: a playing surface that is substantially planar; and a court perimeter formed on the top surface of the playing surface and comprising a plurality of board sections (side rails 17 and end rails 18), adjacent board sections being secured together by a respective one of a plurality of anchors (spaced angle bars 22), wherein the plurality of board sections (rails 17 and 18) are made of a rigid material

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(see page 2, column 2, lines 105-110) having a first height above the playing surface, the plurality of board sections providing a surface against which a game ball (20) may rebound (see figures 2 and 3; also see page 2, column 1, lines 1-7).

Regarding claim 3, Johnson further shows the plurality of board sections (side rails 17 and end rails 18) comprise a first backstop and a second backstop (the broadest reasonable interpretation of backstop would include the inner surface of the end rails 18) defining respectively a first end and a second, opposite end of the court perimeter.

Regarding claim 4, Johnson shows the plurality of board sections (side rails 17 and end rails 18) comprise board sections forming a first backstop and board sections forming a second backstop (the broadest reasonable interpretation of backstop would include the inner surface of the end rails 18) defining respectively a first end and a second, opposite end of the court perimeter, the board sections for each of the first and second backstops being fastened together by one or more of the plurality of anchors (corner brackets 35).

Regarding claim 7, Johnson shows the plurality of board sections (side rails 17 and end rails 18) comprise board sections forming a first sideboard and board sections forming a second sideboard (side rails 17), the first and second sideboards defining respectively a first side and a second, opposite side of the court perimeter (see figure 1).

Regarding claim 10, Johnson shows the plurality of anchors comprise a plurality of corner anchors (corner brackets 35), each corner anchor engaging a selected one of the first and second backstops and one of the plurality of board sections perpendicular to the selected one of the first and second backstops (see figures 2, 3 and 11).

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Regarding claim 11, as best seen in figures 1 and 11, Johnson shows each of the plurality of corner anchors (corner brackets 35) comprises a 90 degree metal angle formed with a 45 degree miter joint.

Regarding claim 12, additionally Johnson shows the plurality anchors comprise a plurality of side anchors (spaced angle bars 22), each side anchor engaging two adjacent board sections (see figure 5).

Regarding claim 13, note in part, the rejection of claim 11.

Regarding claim 14, Johnson also shows the playing surface comprises a carpet layer (initial covering 19 having a protective sheet 21; see figure 7).

Regarding claim 23, note the rejection of claims 3, 7, 10 and 12, and wherein the first and second backstops and the first and second sideboards, secured by the plurality of corner anchors and the plurality of side anchors, define a perimeter of the sport court.

Regarding claim 24, Johnson shows a playing surface that substantially planar, wherein the first and second backstops and the first and second sideboards are placed on the top surface of the playing surface (see figure 1).

Regarding claim 25, note the rejection of claim 14.

Regarding claim 31, note the rejection of claim 12.

Regarding claim 35, note the rejection of claim 7.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2, 5, 6, 8, 9, 15, 18, 21, 22, 28, 32, 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (1,399,864).

Regarding claim 2, Johnson does not expressly disclose that the game court is a bocce court using a bocce ball. Johnson shows that the court can be used for various outdoor games e.g. croquet, roque, billiards etc. in view of Johnson's teaching it would have been obvious to further utilize the game court of Johnson to play a game of bocce.

Regarding claim 5, Johnson shows the board sections forming the first backstop include one board sections having a first length. Johnson does not disclose expressly that the backstop can be made of a plurality of board sections with different lengths. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the backstop from a plurality of different length boards, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Nerwin v. Erlichman, 168 USPQ 177, 179.

Regarding claim 6, note the rejection of claim 5.

Regarding claim 8, note the rejection of claim 5. The same reasoning applies to the sideboards as it did above to the end boards.

Regarding claim 9, note the rejection of claim 5. The same reasoning applies to the sideboards as it did above to the end boards.

Regarding claim 15, Johnson shows that the carpet layer (felt layer 19) is securely fastened to the board (15). Johnson does not disclose expressly the use of VELCRO strips. At the time the invention was made, it would have been an obvious matter of design choice to a

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person of ordinary skill in the art to secure the carpet layer by using VELCRO strips, because Applicant has not disclosed that using VELCRO strips, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the securing fastener taught by Johnson or the claimed VELCRO strips because both securing means perform the same function of securing the carpet layer to the board section. Therefore, it would have been an obvious matter of design choice to modify Johnson to obtain the invention as specified in claim 15.

Regarding claim 18, Johnson shows the carpet layer is of a felt or like material which give resilience to the movement of the playing balls. Official Notice is taken that the use of ASTROTURF is well known in the outdoor court games, and an obvious substitution for the carpet layer of Johnson, since it provides the right amount of resiliency for the ball movement and it withstands outdoor weather conditions.

Regarding claim 21, Johnson does not expressly disclose the specific material the anchors are made of. However, as it is well known angle bars and brackets are customarily made of metal e.g. steel or aluminum or an equivalent material, and it would have been obvious to utilize the same here.

Regarding claim 22, Johnson shows each of the plurality of anchors is fastened to a board section by a plurality of screws. Official Notice is taken that the threaded bolts are art recognized equivalents to screws, and to substitute one for the other would have been an obvious matter of choice (see figure 5).

Regarding claim 28, note the rejection of claim 18.

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Regarding claim 32, note the rejection of claim 5.

Regarding claim 36, Johnson shows the plurality of corner anchors and the plurality of side anchors (spaced angle bars 22) comprise 90 degree metal angles (they are L-shaped; (see figure 10). and are made from a material selected from the group of stainless steel, steel, and aluminum. additionally Johnson shows the plurality anchors comprise a plurality of side anchors (note the rejection of claim 21).

Regarding claim 37, note the rejection of claim 22.

Regarding claim 38, note the rejection of claim 22.

12. Claims 16, 17, 19, 20, 26, 27, 29, 30, 33, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (1,399,864) in view of Baum (3,715,123).

Regarding claim 16, Johnson does expressly shows first and second elongated spacers that provide a slightly raised surface. Baum additionally shows first and second elongated spacer layers (peripheral members 26 and 28) placed under the carpet layer (14), the first and second spacer layers being spatially aligned with a respective one of the first and second sideboards, the spacer layers extending partially into the inner perimeter of the sport court and providing a surface along the inner perimeter of the first and second sides of the sport court (see column 2, lines 35-57; column 3, lines 19-31; and column 4, lines 1-5). In view of Baum it would have been obvious to provide spacers for the assembly of Johnson, the motivation being to retain and readily redirect the balls within the playing area.

Regarding claim 17, Johnson shows the carpet layer is a first carpet layer (protective sheet 21) and the playing surface further comprises a second carpet layer (initial covering 19) underlying the first carpet layer (see figure 7), the first and second elongated spacer layers being

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placed between the first and second carpet layers (see page 1, column 2, lines 56-63). Johnson is silent with regards to the first layer having a rubber backing. Such is well known in the outdoor flooring in order to prevent slippage, and it would have been obvious to do so here.

Regarding claim 19, Johnson shows that the boards are rigid, long and lasting and durable. As best seen in figure 5, the boards appear to be made of wood. Nevertheless for the sake of argument Johnson does not disclose expressly the specific material and size of the boards. Baum shows a game, wherein the playing area is defined by a plurality of boards, the boards may be constructed from wood, sheet metal, plastic or the like (see column 2, lines 43-48). In view of Baum it would have been obvious to construct the boards of Johnson from any rigid, durable material including wood, the motivation being to produce a long lasting game court. With regards to the boards being at least 4" high, as best seen from the figures, it appears that the boards of Johnson are within the claimed range.

Regarding claim 20, Johnson does not expressly disclose the specific size of the hard wood beams. Official Notice is taken that the claimed beam size is well known in the art and an obvious choice to have used for the beams of Johnson.

Regarding claim 26, note the rejection of claim 16.

Regarding claim 27, note the rejection of claim 17.

Regarding claim 29, note the rejection of claim 19.

Regarding claims 30 and 34, Johnson shows rigid wood beams (cross strips 16), but does not expressly disclose the rigid wood beam comprises a hard wood beam having a dimension of 2 inch by 6 inch by 11 feet 6 inch by 10 feet or 2 inch by 6 inch by 11 feet 6 inch by 11 feet. At the time the invention was made, it would have been an obvious matter of design choice to a

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person of ordinary skill in the art to secure the carpet layer by using the claimed hardwood beam, because Applicant has not disclosed that using the claimed hardwood beam, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the hardwood beam taught by Johnson or the claimed hardwood beam because both hardwood beams perform the same function of providing lower support for the sport court. Therefore, it would have been an obvious matter of design choice to modify Johnson to obtain the invention as specified in claims 30 and 34.

Regarding claim 33, note the rejection of claim 19.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hiserman; Francin; Sommerville; Henderson; Zentner, Jr.; Nehl; Cecil; Bolanger; Buzby; Hawks; Hurt; Barrett; Roth; Liebig.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 703-308-3550. The examiner can normally be reached on Monday - Friday 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MITRA ARYANPOUR
PATENT EXAMINER

MA
30 September 2004